

Nicholas Lord Viscount
Kingsland, } Appel

Nicholas Barnewall, the
Elder, Gent. & Al' } Resp

The Appellant's C A S E.

1665. **T**HE Appellant's Father, Henry Lord Viscount Kingsland, did Mortgage Lands called Ballbarry, and the Grange, to Martin Brice and Robert Barnewall, and their Heirs, for Securing 580 l. with Interest.

1673. The Appellant's Father for 150 l. Fine Demis'd Ballbarry to Mary Brice for Twenty-one Years, at 18 l. 18 s. per Ann. Rent; Robert Barnewall becoming Intituled to the said Mortgage and Lease, (Ballbarry Lands being worth 120 l. per Ann. and the Grange being worth above 60 l. per Ann.) and being standing Counsel to the Appellant, at the Yearly Salary of 10 l. until the Surrender of Limrick in 1691. And then having formed a Design upon the Appellant and his said Estate, and to get the said Lease renewed for Twenty-one Years at the same Rent, insinuated himself into the Appellant's Relations (the Appellant's natural Temper and Infirmities rendring him uncapable and unfit for Business himself) as one that was capable of rendring the Appellant great Advantage by his Services. And thereupon the said Robert Barnewall was continued in the Appellant's Service, and Intrusted to manage his Affairs and Estate, with an Allowance of a Salary of 30 l. per Ann. besides his Fees as Counsel: And upon his Application to the Appellant's Relations for a renewal of the said Lease without any Fine, and finding them averse to it, (for that 300 l. had been offered as a Fine for the like Term at the same Rent) he to incline them to it, promised them that he would do the Appellant Services within a Years time to the Value of that, and more, and which the Appellant's best Friends should be Judges of.

16 April 1692. Whereupon the Appellant, by the Advice of his Relations, did Renew the said Barnewall's Lease for Twenty-one Years at the said Rent of 18 l. 18 s. per Ann. without Fine: But Barnewall being not satisfied therewith, addressed himself to the Appellant's Relations to get the said Lease renewed for Ninety-nine Years; and finding them averse to the said Proposal, and absolutely refusing to comply therewith, Barnewall, who to carry on his Designs had imbroiled him in many unnecessary and causeless Suits with the Appellant's nearest Relations, and in particular touching the Appellant's Sisters Portions, Given them by the Appellant's Father's Will, which was Drawn by the said Barnewall himself, and Executed according to his directions; and also touching the Portion Settled on the Appellant's Sister the Lady Howth; and a Mortgage of 1000 l. due to the Lord Riverstowne, the Appellant's Uncle, in all which Suits, the Appellant was Cast, and Paid Costs; and having by those and other indirect Means set the Appellant at variance with his Friends and Relations, and got him from them into his own Power and Influence, threatned the Appellant that if he would not renew his Lease for Ninety-nine Years, he would have no more to do with him, (the Appellant being of a very easie Nature and Temper) and the Appellant putting his whole Trust and Confidence in Barnewall, and wholly relying on him (as being the Appellant's Standing Counsel for his Advice and Direction in relation to his Law-Suits, Estate and Affairs of his Family, Barnewall took that Opportunity in Consideration of 50 l. ready Money (which he knew was very acceptable to the Appellant,) and the old Mortgage-Money of 580 l. and 10 l. per Ann. during the Appellant's Life.

18 October 1694. Obtain'd (without the Consent or Privity of any of the Appellant's Friends or Relations,) from the Appellant, a Grant of the Fee-simple of Ballbarry and the Grange, which were then well worth above 4000 l. to be Sold, obliging him not to discover the same to his Relations; but afterwards they being made acquainted therewith, dissuaded

dissuaded the *Appellant* from receiving the said 10 l. per *Ann.* and making him sensible how grossly he had been abus'd and circumvented; and upon the *Appellant's* Lady's Return into that Kingdom, there was a State of the Case drawn in order to Commence a Suit against *Barnewall* in *Chancery*, in order to be reliev'd against the said over-reaching Bargain; Which *Barnewell* hearing of, sent the *Appellant* a Challenge, and got him into a *Tavern*, and there made him deliver up the State of the Case, with the Counsel's Opinion thereon; and by those Indirect Ways and Means *Barnewall* made the *Appellant* deny that he was privy to the drawing of the said Case, or that *Barnewall* was guilty of any of the Reflections therein contained; but *Barnewall* afterwards understanding that the *Appellant's* Relations did design to Prosecute a Suit against him, he did propose to leave all the Matters in Difference to Reference, to the Lord *Riverstowne*; but when he accepted it, he went off of it, and then propos'd to referr it to the *Solicitor General*, but before any thing was done therein, *Barnewall* died in 1700, and by his Will Devis'd the Premisses to the *Respondents*.

Hilary-
Term,
1702.

Thereupon the *Appellant's* Relations, in his Name, did Exhibit a Bill into the Court of *Chancery* in *Ireland*, to be Relieved in the Premisses against the *Respondents*, to which they put in their Answers, and many Witnesses being Examined on both Sides.

11 Dec.
1705.

On Hearing the Cause, the Lord-Chancellor of *Ireland* was pleased to Dismiss the *Appellant's* Bill.

Against which Dismission this *Appeal* is brought to be Relieved against so great a Fraud and Breach of Trust committed by *Barnewell* upon the *Appellant*, who put his whole Trust and Confidence in *Barnewall*, and was entirely guided and governed by him, as being his Standing Counsel and Manager, who had as great a Power over the *Appellant* as any Parent had over a Child, and cou'd persuade him to do whatever *Barnewall* had a mind he should do, as fully appears by the Proofs in the Cause.

SIM. HARCOURT.

HEN. POLEY.



Lord Kingland, Appel^t

Barnewall & al^t Respond^t

T H E

Appellant's C A S E.

To be Heard before the LORDS, on
Friday the 28th of February, 1706.

L^d. Weymouth